Bengaluru Smart Infrastructure Limited (B-SMILE)

International Competitive Bidding under

Single-Stage Two Envelope

Bidding Process

for

Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE.

Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).

REQUEST FOR PROPOSAL (RFP)

BID DOCUMENT

VOLUME -I

INSTRUCTIONS TO BIDDERS

July 2025

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BENGALURU SMART INFRASTRUCTURE LIMITED

No: B-SMILE/SE/TEND/03 /2025-26

Office of the Superintending Engineer
Bengaluru Smart Infrastructure Limited
(B-SMILE), 3rd Floor, # 30/1, Thimmaiah
Road, Millers Tank Bund Area,
Vasanthnagar,
Bengaluru-560 052
Dated: 14.07.2025

NOTICE INVITING TENDER (NIT)

(Through http://kppp.karnataka.gov.in only)
(International Competitive Bidding under Single-stage Two Cover System)

1. The Government of Karnataka has constituted "Bengaluru Smart Infrastructure Limited" (B- SMILE) for implementation of Specific Infrastructure works in the city of Bengaluru. On behalf of the Bengaluru Smart Infrastructure Limited (B-SMILE), The Superintendent Engineer, Bengaluru Smart Infrastructure Limited (B-SMILE) invites tenders from eligible contractors registered in Bengaluru Smart Infrastructure Limited (B-SMILE), BBMP or equivalent registration with CPWD / KPWD / Railways / MES / National Highway or any State Government Organizations for the development of works detailed in the table below. Joint venture and Consortium arrangements are also acceptable as per the biding documents.
2. The tenderers may submit tenders for works given in the table through KPP portal of the Government of Karnataka (http://kppp.karnataka.gov.in). The Tenderers are advised to note the minimum qualification criteria specified in Article 2 of the RFP to qualify for award of the contract (RFP Document and KTPP Act shall be followed).
3. Tenders must be accompanied by Earnest Money Deposit (EMD) specified for the work in the table below. Earnest money deposit will have to be in any one of the forms as specified in the Tender document. Any errors in the EMD shall be liable for rejection and EMD shall have to be valid for 90 days beyond the validity of the tender.
4. Tenders must be submitted online through KPP portal on or before 16.00 hours on 02.09.2025 and the opening of tenders will be as per the KPP portal guidelines. Aspiring Contractors, Joint Ventures, Consortiums who have not registered in the KPP Portal must register before participating through the website https://kppp.karnataka.gov.in/#/portal/portal-home.
5. Tender documents and other information can be downloaded from the KPP portal from 15.07.2025 @ 17.30 hours onwards.
6. RFP documents may be downloaded from Government of Karnataka KPP Portal website https://kppp.karnataka.gov.in/#/portal/portal-home under tenders' section. All documents uploaded on the KPP portal are strictly confidential and the property of B-SMILE and for the tender purposes only. The contractors are directed to conduct their own surveys, studies, and analysis before submitting their bids.
7. The bid document can be downloaded from the portal as per prescribed date and time published in the portal. The transaction fee/Bid document/ Tender Document fee is non-refundable. For registration and e-payment details contact KPP Portal Helpdesk.
8. The Bidders shall be selected basis the least quoted Total Concession Value (TCV) amount. The same

shall be excluding GST. Bidders shall quote the Total Concession Value (TCV) and submit other documents required as per the bid documents the bids only online.

9. B-SMILE reserves the right to accept or reject any or all the bids without providing reasons.
10. Corrigendum, modifications, corrections, if any, will be published in the KPP portal website only.
11. Further details may be obtained from Superintending Engineer, B-SMILE vide +91-9480683015 or via email at supeng.bsmile@gmail.com (Smt. R. Malathi)
12. Other details can be seen in the RFP Documents.

Name of the Project	**Length** (in Km)	**Estimated Project Cost (Excluding GST)** (In Rs. Cr.)	**EMD (i.e., Bid Security)**
Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).	Length of Main Tunnel: 7.997 km Length of Ramps: 9.030 km	Rs. 8928 Cr. (Rs. Eight Thousand Nine Hundred and Twenty-Eight Only Crore Only)	Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only)(Rs. 1 Lac. Through e-payment, via. KPP portal and remaining Rs. 44.63 Cr.as per RFP)

Following shall be the calendar of events for Tendering:

S. No.	Event Description	Date
1.	Date and Time for availability of Tender Documents in KPP Portal	15.07.2025 at 17:30 Hours
2.	Last date for submission of pre-bid queries	01.08.2025
3.	Date and Time of Pre-Bid Meeting, Under the Chairmanship of Director (Technical), B-SMILE	04.08.2025 at 12:00 Hours 2nd Floor, BSWML Board Room, No.30/1, UNI Building, Thimmaiah Road, Bengaluru-560051 and Online.
4.	Authority response to Queries latest by	07.08.2025 at 16.00 Hours
5.	Last Date & Time for Receipt of Tenders	02.09.2025 at 16.00 Hours
6.	Last Date for Physical Submission of Bid Security/ Power of Attorney etc.	03.09.2025 at 16.00 Hours
7.	Date & Time for Opening of Technical Bid	04.09.2025 at 16.00 Hours
8.	Declaration of Eligible/ Qualified Bidders	Will be Notified
9.	Opening of Financial Bid	Will be Notified
10.	Letter of Acceptance (LOA)	Will be Notified
11.	Validity of Bids	120 days from Last Date for receipt of tenders
12.	Signing of Concession Agreement	Within 45 days of award of LOA

Sd/- Superintending Engineer
Bengaluru Smart Infrastructure Limited (B-SMILE)

Copy Submitted to the:

1. PS to Hon'ble Administrator, BBMP to bring into the kind notice of Hon'ble Administrator, BBMP.
2. PS to Hon'ble ACS, UDD to bring into the kind notice of Hon'ble Hon'ble ACS, UDD.
3. PS to Hon'ble Chief Commissioner, BBMP to bring into the kind notice of Hon'ble Chief Commissioner, BBMP.
4. PS to Hon'ble Chairman, B-SMILE to bring into the kind notice of Hon'ble Chairman, B- SMILE.

5. PS to Hon'ble Managing Director to bring into the kind notice of Hon'ble Managing Director, B- SMILE.
6. Hon'ble Chief Executive Officer, B-SMILE for kind information.
7. Director (Technical), B-SMILE for kind information.
8. Project Engineer-1, B-SMILE for information and publish the same in the Display / Notice Boards.
9. Public Relation Officer, BBMP for information and to publish in two leading National Newspapers in Kannada and English.
10. I. T. Advisor with a Request to publish the same in the BBMP Website.
11. Office Copy.

Superintending Engineer
Bengaluru Smart Infrastructure Limited
(B-SMILE)

DISCLAIMER

The information contained in this Request for Proposal document (the "RFP") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers (Bids) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the Detailed Project Reports (DPRs), may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

The information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority, or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

GLOSSARY

Authority	As defined in Clause 1.1.1
Associate	As defined in Clause 2.1.14
Bank Guarantee	As defined in Clause 2.20.1
Bid(s)	As defined in Clause 1.2.2
Bidders	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.1.7
Bid Due Date	As defined in Clause 1.1.7
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Bid Stage	As defined in Clause 1.2.1
Concession	As defined in Clause 1.1.5
Concession Agreement	As defined in Clause 1.1.2
Concessionaire	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.1.14
Damages	As defined in Clause 2.1. 14
Demand Draft	As defined in Clause 2.20.2
Estimated Project Cost	As defined in Clause 1.1.4
Feasibility Report	As defined in Clause 1.2.3
Government	Government of Karnataka/ India
Lowest Bidder	As defined in Clause 1.2.6
LOA	As defined in Clause 3.3.5
Member	Member of a Consortium
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
Selected Bidder	As defined in Clause 3.3.1
Total Concession Value (TCV)	As defined in Clause 1.2.6
Viability Gap Funding	As defined in Clause 1.2.6

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

1. INTRODUCTION

1.1 Background

1.1.1 Bengaluru Smart Infrastructure Limited (B-SMILE) incorporated by the Government of Karnataka as per Government order UDD 540 MNY dated 02.05.2025(the **"Authority"**) is authorized by the State Government of Karnataka for the planning, development, coordinating and implementing agency for **Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on Modified BOOT Mode. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).**

As part of this endeavour, the Authority has decided to carry out the bidding process for the selection of a private entity as the bidder to whom the Project may be awarded. A brief description of the project may be seen in the Information Memorandum of the Project at the Authority's website https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp and https://kppp.karnataka.gov.in Brief particulars of the Project are as follows:

S. No.	Particulars	Length (Km.)	Estimated Cost Excluding GST. (Rs. In Cr.)	EMD (i.e., Bid Security)
1	Design and Construction 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).	Length of Main Tunnel: - 7.997 Length Of Ramps: - 9.030	Rs. 8928 Cr. (Rs. Eight Thousand Nine Hundred and Twenty-Eight Only Crore Only)	Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only) (Rs. 1 Lac. Through e-payment, via. KPP portal and remaining Rs. 44.63 Cr.as per RFP)

1.1.2 The Selected Bidder, who is either a company incorporated under the Companies Act, 2013 or undertakes to incorporate as such prior to execution of the concession agreement (the "**Concessionaire**"), shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of a concession agreement (the "**Concession Agreement**") to be entered into between the Selected Bidder and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.

1.1.3 The scope of work will broadly include design, build, finance and operate a Road Tunnel in Bengaluru and Real Estate Development on the Site as set forth in Schedule-A and as specified in Schedule-B together with provision of Project Facilities as specified in Schedule- C, and in conformity with the Specifications and Standards as set forth in Schedule-D of the Concession Agreement and the operation and maintenance thereof.

1.1.4 The estimated cost of the Project (the "**Estimated Project Cost**") has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.

1.1.5 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "**Concession**").

1.1.6 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any

omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.

1.1.7 The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Authority (collectively the "**Bidding Documents**"), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the "**Bid Due Date**").

1.2 Brief description of Bidding Process

1.2.1 The Authority has adopted a single stage two envelope process (referred to as the "**Bidding Process**") for selection of the Bidder for award of the Project. Under this process, the Bid shall be invited under two envelopes. Prior to or along with the Bid, the Bidder shall pay to the Authority a sum of Rs. xxxx[2] (Rupees **** Only) as the cost of the Bidding Process. Eligibility and qualification of the Bidder (The "Bidder", which expression shall, unless repugnant to the context, include the members of the Consortium) will be first examined based on the details submitted under first envelop ("Technical Bid") with respect to eligibility and qualifications criteria prescribed in this RFP. The Financial bid under the second envelop ("Financial Bid") shall be opened of only those Bidders whose Technical Bids are responsive to eligibility and qualifications requirements as per this RFP.

GOI has issued guidelines (see Annexure VI of Appendix-IA of RFP) for qualifications of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply mutatis mutandis to this Bidding Process. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-IA.

1.2.2 Interested bidders (the "Bidders") are being called upon to submit their Bid in accordance with the terms specified in this Bidding Document. The Bid shall be valid for a period of 120 days from the date specified in Clause 1.3 for submission of Bids (the 'Bid Due Date").

1.2.3 The complete Bidding Documents including the draft Concession Agreement for the Project is enclosed for the Bidders. The Feasibility Report / Detailed Project Report prepared by the Authority/ consultants of the Authority (the "Feasibility Report/Detailed Project Report") is also enclosed for guidance purposes only. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

1.2.4 A Bidder is required to deposit, along with its Bid, a bid security Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only) (the "Bid Security"), refundable not later than 90 (ninety) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Authority, and in such event, the validity period of the bank guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time and that the validity of the demand draft shall not be less than 60 (sixty) days from the Bid Due Date. Upon submission of the demand draft, the same shall be encashed by the Authority. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

1.2.5 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for the award of the Concession including implementation of the Project.

1.2.6 Bids are invited for the Project on the basis of the lowest Total Concession Value (the "TCV") required by a Bidder for implementing this Package of the Project.

Here, TCV represents the NPV (Net Present Value, as on Appointed Date) of the toll revenues that the Concessionaire seeks to recover during the concession period to cover all costs associated with the Project in a financially viable manner.

[2] As per KPPP portal

The TCV shall reflect the additional revenue necessary for the Concessionaire, in addition to the Viability Gap Funding (VGF) from the Authority and Ancillary Revenue streams (as defined in the Concession Agreement, Clause 3.1.2. (h)) to cover all project-related costs, including construction, financing, and operation and maintenance (O&M) expenses, within the projected concession period. The project will be awarded to the bidder offering the lowest TCV.

The Concession Period is variable, as indicated in the Concession Agreement (Refer Clause 3.1.1.While the Authority has an Estimated Concession Period of 34 years, starting from the Appointed Date, (including 4 years 2 months of construction) based on its financial modeling, the Concession Period may be extended beyond this estimate (to a maximum of 44 years), if the NPV of toll revenues collected during the Estimated Concession Period (discounted at the rate set by the Authority) falls short of the Total Concession Value (TCV) quoted by the Selected Bidder at the time of bidding. Conversely, the Concession Period may be terminated as soon as the present value of toll revenues collected during the period becomes equal to the TCV quoted by the Concessionaire.

The TCV amount shall constitute the sole criteria for evaluation of Bids. Subject to Clause 2.1.6, the Project will be awarded to the Bidder quoting the lowest TCV.

In this RFP, the term “Lowest Bidder” shall mean the Bidder who is seeking the lowest TCV.

The Authority shall provide Viability Gap Funding over and above the TCV to support financial feasibility of the Project. The VGF will be fixed at 40% of the Estimated Project Cost, amounting to INR 3571 Crores (40% of Estimated Project Cost INR 8928 Crores).

1.2.7 Generally, the Lowest Bidder in terms of the lowest TCV bid, shall be the “Selected Bidder”.. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of this RFP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason except the reasons specified in Clause 1.2.11 and 3.8 of RFP. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Authority may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process.

For the purpose of evaluation, bidders will quote the NPV of the toll revenues that they seek to collect over the concession period (the “TCV”).

For the purpose of reviewing the concession period, the Authority shall discount the toll revenues collected each year using the following discount rate: SBI’s 3-year MCLR rate + 2.5%, as applicable in that year.

1.2.8 The Concessionaire shall be entitled to levy and charge a pre-determined user fee from users of the Project.

1.2.9 Other details of the process to be followed under this Bidding Process and the terms thereof are spelt out in this RFP.

1.2.10 Any queries or request for additional information concerning this RFP shall be submitted by e-mail to the officer designated in Clause 2.11.4 below with identification/ title:

"Queries/Request for Additional Information: RFP for “Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).”

1.2.11 A Bidder is required to submit, along with its technical BID, a self- certification that Its Bid meets the local content requirement for 'Class-I local supplier' / 'Class II local supplier", as the case may be. The self-certification shall also have details of the location(s) at which the local value addition is made. In case, the bidder has not submitted the afore-said certification the bidder will be treated as 'Non-Local Supplier'.

In the above pretext, the Class I Local Supplier, Class II Local Supplier and the Non- Local Supplier are defined as under:

(i) 'Class I - Local Supplier' means a supplier or service provider, whose Goods, Services or Works offered for Procurement, meets the minimum Local Content as prescribed for Class I local supplier under this RFP. The "Local Content requirement to categorize a supplier as 'Class I local supplier is minimum 50%.

(ii) ‘Class II Local Supplier' means a supplier or service provider, whose Goods, Services or Works offered

for Procurement, meet the minimum Local Content as prescribed for 'Class II Local supplier under this RFP. The 'Local Content' requirement to categorize a supplier as 'Class II Local supplier is minimum 20%.

(iii) 'Non-Local Supplier' means a supplier or service provider, whose Goods, Services or Works offered for Procurement, has Local Content less than that prescribed for "Class - II Local supplier under this RFP.

(iv) 'Local Content' means the amount of value added in India which shall be the total value of Items procured proposed to be procured (excluding net domestic indirect taxes) minus the value of Imported Content in the Items (Including all customs duties) as a proportion of the total value, in percent.

In case of procurement for a value in excess of Rs. 10 crores, the 'Class I local supplier / Class-II local supplier shall provide a certificate from the statutory auditor or cost auditor of the company (In case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

1.3 Schedule for Bidding Process

The Authority shall endeavour to adhere to the following schedule:

S. No.	Event Description	Date
1	Date and Time for availability of Tender Documents in KPP Portal	15.07.2025 at 17:30 Hours
2	Last date for submission of pre-bid queries	01.08.2025
3	Date and Time of Pre-Bid Meeting, Under the Chairmanship of Director (Technical), B-SMILE	04.08.2025 at 12:00 Hours 2nd Floor, BSWML Board Room, No.30/1, UNI Building, Thimmaiah Road, Bengaluru-560051 and online.
4	Authority response to Queries latest by	07.08.2025 at 16.00 Hours
5	Last Date & Time for Receipt of Tenders	02.09.2025 at 16.00 Hours
6	Last Date for Physical Submission of Bid Security/ Power of Attorney etc.	03.09.2025 at 16.00 Hours
7	Date & Time for Opening of Technical Bid	04.09.2025 at 16.00 Hours
8	Declaration of Eligible/ Qualified Bidders	Will be Notified
9	Opening of Financial Bid	Will be Notified
10	Letter of Acceptance (LOA)	Will be Notified
11	Validity of Bids	120 days from Last Date for receipt of tenders
12	Signing of Concession Agreement	Within 45 days of the award of LOA

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 General Terms of Bidding

2.1.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.

2.1.2 An international Bidder bidding individually or as a member of a Consortium shall ensure that Power of Attorney is legalised/apostilled by appropriate authority notarized in the jurisdiction where the Power of Attorney is being issued and requirements under the Indian Stamp Act, 1899 are duly fulfilled.

2.1.3 The Feasibility Report / Detailed Project Report of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Feasibility Report/Detailed Project Report shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report/Detailed Project Report.

2.1.4 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have an overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.

2.1.5 The Bid shall be furnished in the format prescribed in the RFP. The Technical Bid shall be as per Appendix 1A, and the Financial Bid shall be as per Appendix IB of the RFP. Bid amount shall be indicated clearly in both figures and words, in Indian Rupees, in prescribed format of Financial Bid and shall be signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

2.1.6 The Bid shall consist of a TCV amount and a fixed amount equal to 40% of the Estimated Project Cost, i.e., INR 3571, shall be payable by the Authority to the Concessionaire as Viability Gap Funding, as per the terms and conditions of this RFP and the provisions of the Concession Agreement.

2.1.7 The Bidder shall deposit a Bid Security of Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only)in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee acceptable to the Authority, as per format at Appendix–II. The Bidders shall also submit copy of Demand Draft of Rs. xxxx Crore. (Rupees **** Only) towards cost of Bidding Documents.

2.1.8 The validity period of the Bank Guarantee or Demand Draft, as the case may be, shall not be less than 120 (one hundred and twenty) days from the Bid Due Date with a claim period of 60 (Sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 90 (ninety) days from the Bid Due Date except in the case of the Selected Bidder, whose Bid Security shall be retained till the Selected Bidder has provided the Performance Security under the Concession Agreement.

2.1.9 The Bidder should submit a Power of Attorney as per the format at Appendix–III, authorising the signatory of the Bid to commit the Bidder.

2.1.10 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of any Member, which Member shall thereafter be identified as the Lead Member, in the format at Appendix - IV[€]. In case the Bidder is a Consortium, the Joint Bidding Agreement in the formal of Appendix V shall be submitted by the Bidder.

2.1.11 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.

[€] In case of a Consortium, the Members should submit a Power of Attorney in favour of the any Member as per the format as Appendix-IV. Such Member shall thereafter be identified as the Lead Member. The Lead Member should submit a power of Attorney as per the format in Appendix-III, authorizing the signatory of the Application. Members of the Consortium of need not submit Power of Attorney as per the format at Appendix-III, authorising the signatory of the Application.

2.1.12 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.

2.1.13 The Bidding Documents, including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance with herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid. document or any information provided along therewith.

2.1.14 This RFP is not transferable.

2.1.15 Any award of Project pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.1.16 Where the Bidder is a single entity, it shall be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 2013 (the "SPV"), to execute the Concession Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

(a) The number of members in a Consortium shall not exceed 6 (six). However, none of the members in a Consortium should be under any sort of ineligibility under the Bidding Documents but information sought in the Bid may be restricted to 4 (four) members in the order of their equity contribution;

(b) subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;

(c) members of the Consortium shall nominate one member as the lead member (the "Lead Member"), who shall have an equity share holding of at least 26% (twenty-six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-Ill, signed by all the other members of the Consortium;

(d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;

(e) an individual Bidder cannot at the same time be member of a Consortium applying RFP. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium applying for RFP;

(f) the members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;

(g) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-V (the "Joint Bidding Agreement"), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the Application, shall, *inter alia:*

(i) convey the intent to form an SPV, solely for the purpose of domiciling the Project and no other purpose, with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;

(ii) clearly outline the proposed roles and responsibilities, if any, of each member;

(iii) commit the minimum equity stake to be held by each member;

(iv) commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;

(v) members of the Consortium undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and

(vi) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement; and

(h) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint. Bidding Agreement without the prior written consent of the Authority.

2.1.17 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium. The Bidder, including an individual or any of its Joint Venture member or Members of its Consortium, should not be a non-performing party on the bid submission date. The Bidder, including any Joint Venture Member/ Members of its Consortium, shall be deemed to be a non-performing party, if it attracts any or more of the following conditions in any of its ongoing or completed project:

(i) Fails to set up institutional mechanism and procedure as per contract.

(ii) Fails to mobilise key construction equipment within a period of 4 months from the Appointed Date;

(iii) Fails to complete or has missed any milestone and progress not commensurate with contiguous unencumbered project length/ROW available even after lapse of 6 months from respective project milestone/Schedule Completion date, unless Extension of Time has been granted due to Authority's Default or Force Majeure;

(iv) Fails to achieve progress commensurate with funds released from Escrow Account (Equity Debt Grant) in BOT or HAM project and variation is more than 25% in the last 365 days;

(v) Fails to achieve the target progress or complete the project as per schedule agreed at the time of sanctioning of funds under One Time Funds Infusion (OTFI) or relaxations to contract conditions to improve cash flow solely on account of Concessionaire's/contractor's failure/default;

(vi) Fails to complete rectification (excluding minor rectifications) as per time given in non-conformity reports (NCR) in design/completed works/maintenance or reported in Inspection Reports issued by Quality Inspectors deployed by the Authority or Officers of the Authority.

(vii) Fails to complete minor rectifications exceeding 3 Instances in a project as per time given in non-conformity reports (NCR) in design/completed works/maintenance;

(viii) Fails to fulfil its obligations to maintain a highway in a satisfactory condition in spite of two rectification notices issued in this regard;

(ix) Damages/penalties recommended by Independent/Authority's Engineer during O&M Period and remedial works are still not taken up;

(x) Fails to complete Punch list items even after lapse of time for completion of such items excluding delays attributable to the Authority;

(xi) Occurrence of minor failure of structures/highway due to construction defect wherein no causalities are reported (causalities Include injuries to human being / animals);

(xii) Occurrence of major failure of structures/highway due to construction defect wherein no casualties are reported (causalities include injuries to human being / animals);

(xiii) Occurrence of major failure of structures/highway due to construction defect leading to loss of human lives besides loss of reputation etc. of the authority;

(xiv) Fails to make premium payments excluding the current instalment in one or more projects;

(xv) Fails to achieve financial closure in two or more projects within the given or extended period (which shall not be more than six months in any case);

(xvi) Fails to submit the Performance Security within the permissible time period in more than one project;

(xvii) Rated as an unsatisfactory performing entity/ non-performing entity by an Independent third-party agency and so notified on the website of the Authority;

(xviii) Failed to perform for the works of Expressways, National Highways, ISC & El works In the

last 2(two) years, as evidenced by Imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitral award against the Bidder, Including Individual or any of its Joint Venture Member, as the case may be;

(xix) Expelled from the contract or the contract terminated by the Ministry of Road Transport & Highways or its Implementing agencies for breach by such Bidder, Including Individual or any of its Joint Venture Member; Provided that any such decision of expulsion or termination of contract leading to debarring of the Bidder from further participation in bids for the prescribed period should have been ordered after affording an opportunity of hearing to such party.

(xx) Fails to start the works or causes delay in maintenance & repair/overlay of the project.

The Bidder, Including individual or each member of Joint Venture or Members of its Consortium, shall give the list of the projects of Expressways, National Highways, ISC and EI works of Ministry of Road Transport & Highways or its Implementing agencies (NHAI NHIDCL/State PWDs) and the status of above issues in each project as on the bid submission date land undertake that they do not attract any of the above categories (Ref. Sr. No.6, Annex-I of Appendix - IA).

The Bidder Including individual or any of its Joint Venture Member or Members of its Consortium may provide

(i) details of all their on-going projects along with updated stage of litigation, If so, against the Authority/Governments; and

(ii) details of updated on-going process of blacklisting if so, under any contract with Authority/Government;

The Authority reserves the right to reject an otherwise eligible Bidder on the basis of the Information provided under this clause 2.1.17. The decision of the Authority in this case shall be final

2.1.18 A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Bidder, Consortium Member or Associate.

Authority would place sole reliance on the certification provided by the Bidder in this regard in its letter comprising the Technical Bid.

2.1.19 In computing the Technical Capacity and Net Worth of the Bidder/ Consortium Members under Clauses 2.2.2, 2.2.4 and 3.4, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

For the purposes of this RFP, Associate means, in relation to the Bidder/Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 25% (twenty five per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder, or the Consortium Member shall be provided to demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.

2.1.20 The following conditions shall be adhered to while submitting a Bid:

(a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;

(b) information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;

(c) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and

(d) in case the Bidder is a Consortium, each Member should substantially satisfy the RFP requirements to the extent specified herein.

2.1.21 While Qualification is open to persons from any country, the following provisions shall apply:

(a) Where, on the date of the Bid, not less than 50% (fifty percent) of the aggregate issued, subscribed and paid-up equity share capital in a Bidder, or its member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or

(b) if at any subsequent stage after the date of the Bid. there is an acquisition of not less than 50% (fifty percent) of the aggregate issued, subscribed and paid-up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

then the eligibility and/ or opening of Financial Bid and/or award of the Project to such Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.1.22 The Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or I (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.1.23 The Bidder shall provide an undertaking to the Authority that the EPC works of the Project would be executed only by such EPC contractors who have completed at least a single package of more than 20% of the Estimated Project Cost or Rs 500 crores, whichever is less.

2.1.24 All Orders of Ministry of Finance/DPIIT/any other Government agencies, as applicable and prevalent on the date of LOA, shall be applicable.

2.1.25 Entities of countries which have been identified by Ministry of Road Transport & Highways, Govt. of India as not allowing Indian companies to participate in their government allowing Indian companies to participate in their Government procurement for any item related to Ministry of Road Transport & Highways, Govt. of India shall not be allowed to participate in Government procurement in India for all items related to Ministry of Road Transport & Highways, except for the list of Items published by the Ministry of Road Transport & Highways, Govt. of India permitting their participation.

2.2 Eligibility and qualification requirements of Bidder

2.2.1 For determining the eligibility of Bidder, the following shall apply:

(a) The Bidder may be a single entity or a group of entities (the “Consortium"), coming together to implement the Project. The term Bidder used herein would apply to both a single entity and a Consortium.

(b) Bidder may be a natural person, private entity, or any combination of them with a formal intent to enter into a Joint Bidding Agreement or under an existing agreement to form a Consortium.

(c) A Bidder shall not have a conflict of interest (the “Conflict of Interest”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate 5% of the value of the Bid Security or equivalent amount from the Performance Security, as the case may be, as mutually agreed genuine pre-estimated

loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, *inter aliay* the time, cost and effort of the Authority, including consideration of such Bidder's proposal (the "Damages"), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

(i) The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the director in direct shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of not more than 25% (Twenty five percent) of the paid up and subscribed capital; of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is not more than 25% (Twenty five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956/2013. For the purposes of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis: provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary;

or

(ii) a constituent of such Bidder is also a constituent of another Bidder;

or

(iii) such Bidder, its member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or

(iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or

(v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or

(vi) Such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

(vii) Such Bidder or any Associate thereof has appointed any official of the Authority, Ministry of Road Transport & Highways, Technical Advisors of Authority for the Project, Legal Advisors of Authority for the Project, Financial Advisors of Authority for the Project, dealing with the Project, within a period of 6 months from the date of award of the Project to that Bidder.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.1.12. shall include each Member of such Consortium.

For purposes of this RFP. Associate means, in relation to the Bidder/Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 25% (twenty five percent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

(d) A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Author it)- may have thereunder or otherwise, the LOA or the Concession Agreement as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Notwithstanding anything to the contrary contained in sub-clause (c) (i) of Clause 2.2.1, an Bidder may. within 10 (ten) days after the Application Due Date remove from its Consortium any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof However his financial bid shall not be opened.

*Provided further, in case the Authority seeks information / clarification from a Bidders related to occurrence / non-occurrence of Conflict of Interest and the Bidders fails to provide such information within a reasonable time, the Authority shall disqualify the Bidders. Encash its Bid Security as per provision of Clause 2.20.*7 *(a) and further debar it from participation in any future procurement process for a minimum period of 1 year.*

(e) For determining the eligibility of Bidder from a country which shares a land border with India the following shall apply:

(i) Any Bidder from a country which shares a land border with India will be eligible to bid, only if the Bidder is registered with the Competent Authority, specified in Annexure-1 of Order (Public Procurement No. 1) issued by Ministry of Finance, Department of Expenditure Public Procurement Division vide F. No. 6/18/2019-PPD, dated 23 July 2020, which shall form an integral part of RFP and DCA (Copy enclosed).

(ii) **"Bidder from a country which shares a land border with India"** means:

a) An entity incorporated, established or registered in such a country, or

b) A subsidiary of an entity incorporated, established or registered in such a country, or

c) An entity substantially controlled through entities Incorporated, established or registered in such a country; or

d) An entity whose beneficial owner is situated in such a country; or

e) An Indian (or other) agent of such an entity; or

f) A natural person who is a citizen of such a country; or

g) A Consortium or joint venture where any member of the consortium or joint venture falls under any of the above.

(iii) **Beneficial owner for the purpose of (ii) above means:**

1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more judicial person, has a controlling ownership Interest or who exercises control through other means.

Explanation:

a) "Controlling ownership Interest" means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company.

b) "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholding agreements or voting agreements;

2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or one or more juridical person: has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;

3. In case of an unincorporated association or body of Individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more Juridical person, has owners of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individual;

4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner Is the relevant natural person who holds the position of senior managing official;

5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

(i) An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

(ii) The Selected Bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in Clause 2.2.1(d)(ii) above.

Certificate regarding Compliance;

Certificate on the letterhead of the Bidder shall be required to be submitted by the bidders certifying the following:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder's not from a country or, if from such a coy, has been registered with the Competent Authority as defined in Public Procurement Order no. F.no.6/18/2019-PPD dated 23rd July 2020, I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered."

It may be noted that in case the above certification is found to be false, this would be a ground for Immediate rejection of Bid/termination and further legal action in accordance with law.

Validity of Registration:

In respect of RFP, registration should be valid at the time of submission of bids and at the time of acceptance of bids. If the Bidder was validly registered at the time of acceptance, registration shall not be a relevant consideration during contract execution.

(f) The Bidder shall have 'BBB' and above Credit Rating given by Credit Rating Agencies authorized by SEBI. If the bidder does not have 'BBB' and above Credit Rating, the Bidder shall be required to submit a comfort letter from its Bankers/ Financial Institutions along with its Bid that they will provide Credit Facilities (term Loan) to the bidder to meet the project cost excluding grant, if any, for domiciling the project.

2.2.2 To be eligible for this RFP a Bidder shall fulfil the following conditions of eligibility:

(A) Technical Capacity: For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall, over the past 10 (Ten) financial years preceding the Bid Due Date, have:

(i) paid for, or received payments for, construction of Eligible Project(s); and/ or

(ii) paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.4.1; and/ or

(iii) collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2

specified in Clause 3.4.1, such that the sum total of the above, as further adjusted in accordance with clause 3.4.6, is more than Rs. 13393 Cr. (Rupees Thirteen Thousand Three Hundred Ninety Two Ninety-Three Crore Only) (the "Threshold Technical Capability").

Provided that at least one fourth of the Threshold Technical Capability shall be from the Eligible Projects in Category 1 and/ or Category 3 specified in Clause 3.4.1.

(B) **Financial Capacity**: The Bidder shall have a minimum Net Worth (the "Financial Capacity") of Rs. 2232 Cr. (Rupees Two Thousand Two Hundred and Thirty-Two Crore Only) at the close of the preceding financial year.

In case of a Consortium, the combined technical capability and net worth of those Members, who have and shall continue to have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement[£].

Provided further that each member of the Consortium shall have a minimum Net Worth of 10% of Estimated Project Cost in the immediately preceding financial year.

Since the project is divided into two packages and bidders may bid for either or both packages, the bids for Package 1 shall be opened first and L1 shall be declared. The L1 bidder of Package 1 shall be considered eligible for Package 2 only if their Net Worth is more than the sum of the Financial Capacity required for Package 1 and Package 2. For the avoidance of doubt, one bidder may bid for either or both packages but shall be eligible to win both the packages only if the bidder shall have a minimum Net Worth of Rs. 4425 Cr (Rupees Four Thousand Four Hundred Twenty-Five Crore Only) at the close of the preceding financial year.

2.2.2(AA) For normal Highway projects (including Major Bridges/ ROB/ Flyovers/ Tunnels):

Provided that at least one similar work must have been executed or in progress, where the capex incurred is more than 20% of Estimated Project Cost Rs. 1785.68 Cr. (Rupees One Thousand Seven Hundred and Eighty-Five Crore and Sixty Eight Lacs Only.) from the Eligible Projects in Category 1 and/or Category 3 specified in Clause 4.1. For this purpose, a project shall be considered to be completed, more than 90% of the value of work has been completed and such completed value of work is equal to or more than 20% of the estimated project cost. Eligible projects shall include the following:

(a) **Widening/ reconstruction/ up-gradation works on NH/SH/Expressway or on any category of road taken up under CRF, ISC/EL, SARDP, LWE**

(b) Widening/ reconstruction/up-gradation works on MDRs with loan assistance from multilateral agencies or on BOT basis.

(c) Widening/ reconstruction/up-gradation works on roads in Municipal corporation limits, construction of Bypasses

(d) Construction of stand-alone bridges, ROBs, tunnels.

(e) Construction/ reconstruction of linear projects like airport runways, railways (construction/re-construction of railway tracks, yards for keeping containers etc.) metro rail and ports (Including construction/re-construction of Jetties)

If any Major Bridge/ ROB/Flyover/ Tunnel is (are) part of the project, then the sole Bidder or in case the Bidder being a Joint Venture, any member of Joint Venture shall necessarily demonstrate additional experience in construction of Major Bridge/ ROBs/flyovers/ Tunnel in the last 10 (Ten) financial years preceding the Bid Due Date Le, shall have completed at least one similar Major Bridge/ ROB Flyover having span equal to or greater than

(a) In case, the longest span of Bridge/ ROB/ Flyover is less than or equal to 60m, no additional qualification

[£] The Authority may, in its discretion, impose further obligations in the Concession Agreement, but such obligations should provide sufficient mobility for partial divestment of equity without compromising the interests of the Project.

is required.

(b) When the longest span is more than 60m: 50% of the longest span or 100m, whichever is less, of the structure proposed in this project.

and in case of tunnel, if any, shall have completed construction of at least one tunnel consisting of single or twin tubes (including tunnel(s) for Road/Railway/ Metro Rail/irrigation /Hydro-electric projects etc.) having at least

(a) In case Tunnel is a part of project having length less than or equal to 200 m, then no additional qualification is required

(b) When length of tunnel more than 200 m: 50% of the cross-sectional area of proposed tunnel or two-lane highway tunnel cross sectional area, whichever is less and 20% length of the tunnel to be constructed in this project or 2 km, whichever is less

2.2.2(AAA) For Stand- alone specialized projects:

(a) Major Bridge/ ROB/ Flyover projects: [Deleted]

(b)**Tunnel Project**: The sole Bidder or in case the Bidder being a Joint Venture, any member of Joint Venture shall have completed at least one tunnel project in the last 10 (Ten) financial years preceding the Bid Due Date, consisting of single or twin tubes (including tunnel(s) for roads/Railway/Metro Rail/ Irrigation/ hydro-Electric Projects etc.)

[for roads/highways project: having at least 50% of the cross-sectional area of the tunnel to be constructed or cross-sectional area of 2 lane highway tunnel, whichever is less, and 20% length of the tunnel to be constructed in this project or 2 km, whichever is less]

[for metro/rail/other projects: having at least 50% of the cross-sectional area of the tunnel to be constructed or cross-sectional Dia more than 5.5m, whichever is less, and 20% length of the tunnel to be constructed in this project or 10 km, whichever is less] using TBM machine(s)

(In case of tunneling experience using NATM method, the length requirements for qualification as per 2.2.2 (AAA)(b) above shall be doubled.)

and the cost of such project shall be at least 20% of the Estimated Project Cost or Rs. 1000 Cr. whichever is less. For this purpose, a project shall be considered to be completed if more than 90% of the value of work has been completed and such a completed value of work is equal to or more than 20% of the Estimated Project Cost or Rs. 1000 Cr whichever is less.

2.2.3 In case a Bidder does not have tunneling experience, they may produce an MOU with their EPC Contractor to with the requisite credentials to fulfil this condition, which shall certify that if the Bidder is selected, they shall contract the said EPC contractor for the tunneling works. It is clarified that one EPC contractor shall be allowed to sign an MOU with multiple Bidders and be considered for their tunneling credentials. Furthermore, in case of any unavoidable reasons if the Selected Bidder wants to change their EPC Contractor after they are awarded the contract, they must get an approval regarding the same from the Authority, and the credentials of the proposed new EPC contractor satisfy or exceed the requirements set forth in 2.2.2. (AAA). This provision of utilization of the credentials of an EPC contractor (who is not part of the Consortium or JV) on production of an MOU to employ them is limited to Clause 2.2.2 (AAA).**O&M Experience:** The Bidder shall engage an experienced O&M contractor or hire qualified and trained personnel for operation and maintenance of the Project in conformity with the provisions of the Concession Agreement.

2.2.4 The Bidders shall enclose with its Technical Bid, to be submitted as per the format at Appendix-IA, complete with its Annexes, the following:

(i) Certificate(s) from its statutory auditors[6] or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 5 years in respect of the projects specified in paragraph 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular job/

[6] In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.4 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFP.

contract by producing a certificate from its statutory auditor or the client; and

(ii) Certificate(s) from its statutory auditors specifying the net worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.4 (ii). For the purposes of this RFP, net worth (the "Net Worth") shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated loses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.

2.3 Proprietary data

All documents and other information supplied by the Authority' or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid, or any information provided along therewith.

2.4 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water & other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarize themselves with the Project within the stipulated time of submission of the Bid. No extension of time is likely to be considered for the submission of Bids.

2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:

(a) made a complete and careful examination of the Bidding Documents.

(b) received all relevant information requested from the Authority.

(c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above.

(d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder.

(e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;

(f) acknowledged that it does not have a Conflict of Interest; and

(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.5.3 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, including any error or mistake therein or in any information or data given by the Authority.

2.6 Verification and Disqualification

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder

nor will it affect any rights of the Authority thereunder.

2.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

(a) at any time, a material misrepresentation is made or uncovered, or

(b) The Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Authority reserves the right to annul the Bidding Process and invites fresh Bids.

2.6.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOA or the SPV has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Concessionaire, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Concessionaire. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under this RFP, the Bidding Documents, the Concession Agreement or otherwise.

B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for Bids

Section 1.	Introduction
Section 2.	Instructions to Bidders
Section 3.	Evaluation of Bids
Section 4.	Fraud and Corrupt Practices
Section 5.	Pre-Bid Conference
Section 6.	Miscellaneous

Appendices

IA	Letter comprising the Technical Bid including Annexure I to VI
IB	Letter comprising the Financial Bid
II.	Bank Guarantee for Bid Security
III.	Power of Attorney for signing of Bid
IV.	Power of Attorney for Lead Member of Consortium
V.	Joint Bidding Agreement for Consortium
VI.	Integrity Pact

2.7.2 The draft Concession Agreement and a detailed report containing the Asset Condition Survey (Highway, Pavement, Structures and Roadside furniture), Road Safety Report, Detailed Cost estimates, O&M Manuals, Traffic Studies, Soil and material investigations. Design of overlay/rehabilitation strategies provided by the Authority as part of the Bidding Documents shall be deemed to be part of this RFP

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.10. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavor to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.8.2 The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

2.8.3 The Authority may also, on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority, or its employees or representatives, shall not in any way or manner be binding on the Authority.

2.9 Amendment of RFP

2.9.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2.9.2 Any Addendum issued hereunder will be in writing and shall be sent to all the Bidders.

2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date[$].

[$] While extending the Bid Due Date on account of an addendum, the Authority shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Bid Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

C. PREPARATION AND SUBMISSION OF BIDS

2.10 Format and Signing of Bid

2.10.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received online in the required formats and complete in all respects and Bid Security, copy of demand draft for cost of Bidding Documents, Power of Attorney and Joint Bidding Agreement etc. as specified in Clause 2.11.2 of the RFP are received in hard copies.

2.10.2 The Bid shall be typed and signed in indelible blue ink by the authorised signatory of the Bidder. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid.

2.11 Documents comprising Technical and Financial Bid

2.11.1 The Bidder shall submit the Technical Bid & Financial Bid online through e-procurement portal https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp comprising of the following documents along with supporting documents as appropriate:

Technical Bid

(a) Appendix-IA (Letter comprising the Technical Bid) including Annexure I to V and supporting certificates / documents.;

(b) Power of Attorney for signing the Bid as per the format at Appendix-Ill;

(c) if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;

(d) if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V;

(e) copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;

(f) Copies of Bidder's duly audited balance sheet and profit and loss statement for preceding 5 years

(g) Deleted

(h) The integrity pact as per format given in Appendix VI shall be submitted by the Bidder with the Bid duly signed by authorised signatory & shall be part of the Concession Agreement;

(i) Bid Security of Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only)in the form of Bank Guarantee in the format at Appendix-II from a Scheduled Bank.

(j) Copy of demand draft of Rs xxxx (Rupees **** only) in favor of "B-SMILE" payable at "Bengaluru" towards cost of Bidding Documents;

(k) Deleted

(l) An undertaking from the person having Power of Attorney referred to in Sub. Clause-(b) above that they agree and abide by the Bidding Documents uploaded by B-SMILE and amendments uploaded, if any.

Financial Bid

(m) Appendix-IB (Letter comprising the Financial Bid)[β]

Self – Certification

Self-certification by the Bidder that its Bid meets the Local Content requirement for 'Class - I Local supplier'/ 'Class II Local supplier', as the case may be. The Self-certification shall also have details of the location(s) at which the local value addition is made. In case, bidder do not submit the aforesaid Certification, the bidder will be summarily treated as 'Non-Local Supplier'.

In case of procurement for a value in excess of Rs. 10 crores, the 'Class - I Local supplier/ Class-II Local supplier' shall have to provide a Certificate from the Statutory Auditor or Cost Auditor of the Company (in case of Companies) or from a practicing Cost Accountant or practicing Chartered Accountant (in respect of Suppliers other than Companies) giving the percentage of Local Content upon Construction of the Project.

[β] Appendix – IB shall be uploaded in a separate folder along with the financial quotation.

2.11.2 The Bidder shall submit the following documents physically:

(a) Original Power of Attorney for signing the Bid as per format at Appendix- III;

(b) if applicable, original Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;

(c) if applicable, original Joint Bidding Agreement for Consortium as per the format at Appendix-V;

(d) Deleted

(e) Bid Security of Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only) in the form of the original Demand Draft or original Bank Guarantee in the format at Appendix-II from a Scheduled Bank;

(f) Proof of online payment/original demand draft of Rs xxxx (Rupees ****** only) in favor of "B-SMILE" payable at "Bengaluru" towards Cost of Bidding Documents;

(g) Integrity pact on plain paper shall be submitted by the Bidder with the Bid duly signed by authorized signatory & shall be part of the Concession Agreement;

(h) Deleted

(i) An undertaking from the person having Power of Attorney referred to in Sub. Clause-(a) above that they agree and abide by the Bidding Documents uploaded by B-SMILE and amendments uploaded, if any and

(j) Original Statement of Legal Capacity as per format at Annexure V to Appendix IA.

2.11.3 The documents listed at clause 2.11.2 shall be placed in an envelope, which shall be sealed. The envelope shall clearly bear the identification "*******" and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right-hand top corner of the envelope.

2.11.4 The envelope shall be addressed to one of the following officers and shall be submitted at the respective address:

Superintending Engineer
Bengaluru Smart Infrastructure Limited (B-SMILE)
3rd Floor, # 30/1, Thimmaiah Road, Millers Tank Bund Area,
Vasanthnagar, Bengaluru-560 052

E-mail Address: ……

Phone no: -…….

2.11.5 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.

2.11.6 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.12 Bid Due Date

Technical & Financial Bid comprising of the documents listed at clause 2.11.1 of the RFP shall be submitted online through e-procurement portal https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp on or before 1100 hrs IST on ***** Documents listed at clause 2.11.2 of the RFP shall be physically submitted on or before 1100 hours IST on the Bid Due Date at the address provided in Clause 2.11.4 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.11.4.

2.13 Late Bids

E-procurement portal https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp in shall not allow submission of any Bid after the prescribed date and time at Clause 2.12. Physical receipt of documents listed at Clause 2.11.2 of the RFP after the prescribed date and time at Clause 2.12 shall not be considered and the Bid shall be summarily rejected.

2.14 Procedure e-tendering

2.14.1 Accessing/ Purchasing of Bidding Documents

2.14.1.1 It is mandatory for all the Bidders to have class-III Digital Signature Certificate (DSC) (in the name of Authorized Signatory / Firm or Organization / Owner of the Firm or organisation) from any of the licensed Certifying Agency (Bidders can see the list of licensed CAs from the link www.cca.gov.in) to participate in e-tendering of the Authority.

DSC should be in the name of the authorized signatory as authorized in Appendix III of this RFP. It should be in corporate capacity (that is in Bidder capacity / in case of Consortium in the Lead Member capacity, as applicable). The Bidder shall submit a document in support of the class III DSC.

The authorized signatory holding Power of Attorney or the person executing such Power of Attorney shall only be the Digital Signatory. In other cases, the Bid shall be considered **non -responsive.**

2.14.1.2 To participate in the bidding, it is mandatory for the Bidders to get registered their firm / Consortium with e-procurement portal of the Authority https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp to have user ID & password for which the requisite fee may be paid to the service provider, i.e., ****♦♦. The following may kindly be noted:

a) Registration with an e-procurement portal of the Authority should be valid at least up to the date of submission of Bid.

b) Bids can be submitted only during the validity of registration.

2.14.1.3 If the firm / Consortium is already registered with e-tendering service provider of the Authority, and validity of registration is not expired the firm / Consortium is not required a fresh registration.

2.14.1.4 The complete Bidding Documents can be viewed / downloaded by the Bidder from e-procurement portal of the Authority https://eproc.karnataka.gov.in/eprocportal/pages/index.jsp and https://kppp.karnataka.gov.in from ****♦ to ***** (up to 1100 Hrs. 1ST).

2.14.1.5 Deleted

2.14.2 Preparation & Submission of Bids:

2.14.2.1 The Bidder may submit his Bid online following the instructions appearing on the screen. A buyer manual containing the detailed guidelines for e-procurement is also available on the e-procurement portal of the Authority.

2.14.2.2 The documents listed at clause 2.11.1 shall be prepared and scanned in different files (in PDF or RAR format such that file size is not more than 30 MB) and uploaded during the on-line submission of Bid.

2.14.2.3 Bid must be submitted online only through e-procurement portal of the Authority https://eproc.karnataka.gov.in/eprocportal/pages/index.jspusing the digital signature of authorised representative of the Bidder on or before ***** (up to 1100 hours 1ST).

2.14.3 Modifications/ Substitution/ withdrawal of Bids

2.14.3.1 Deleted

2.14.3.2 Deleted

2.15 Online Opening of Bids

2.15.1 Opening of Bids will be done through online process.

2.15.2 The Authority shall on-line open Technical Bids on ***** at **** hours IST, in the presence of the authorized representatives of the Bidders, who choose to attend. Technical Bid of only those Bidders shall be online opened whose documents listed at clause 2.11.2 of the RFP have been physically received. The B-SMILE will subsequently examine and evaluate the Bids in accordance with the provisions of Section 3 of RFP.

2.16 Rejection of Bids

2.16.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.16.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or

liability, and to reject any Bid without assigning any reasons.

2.17 Validity of Bids

The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory' entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

D. BID SECURITY

2.20 Bid Security

2.20.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crores (Rs. one thousand crore), in favour of the Authority in the format at Appendix–II (the "**Bank Guarantee**") and having a validity period of not less than 120 (one hundred twenty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

2.20.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Bengaluru (the "**Demand Draft**"). The Authority shall not be liable to pay any interest in the Bid Security deposit so made and the same shall be interest-free.

2.20.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.

2.20.4 Save and except as provided in Clauses 1.2.4 above, the Bid Security of Unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Authority, and in any case within 90 (Ninety) days from the Bid Due Date. Where Bid Security has been paid by Demand Draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.

2.20.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Concessionaire signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.

2.20.6 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.20.7 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.

2.20.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, under the following conditions:

(a) If a Bidder submits a non-responsive Bid;

Subject however that in the event of encashment of Bid Security occurring due to operation of para 2.20.7 (a), the Damage so claimed by the Authority shall be restricted to 5% of the value of the Bid Security.

(b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;

(c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;

(d) In the case of Selected Bidder, if it fails within the specified time limit

(i) to sign and return the duplicate copy of LOA;

(ii) to sign the Concession Agreement; or

(iii) to furnish the Performance Security within the period prescribed in the Concession Agreement; or

In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

3. EVALUATION OF TECHNICAL BIDS AND OPENING & EVALUATION OF FINANCIAL BIDS

3.1 Opening and Evaluation of Bids

3.1.1 The Authority shall open the Technical Bids received physically & online at ***** hours IST on the Bid Due Date, at the place specified in Clause 2.11.4 and in the presence of the Bidders who choose to attend.

3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.

3.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid within a prescribed time period.

3.1.4 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant information for consideration of eligibility and qualification of the Bidder.

3.2 Tests of responsiveness

3.2.1 As a first step towards evaluation of Technical Bids, the Authority shall determine whether each Technical Bid is responsive to the requirements of this RFP. A Technical Bid shall be considered responsive only if:

(a) Technical Bid is received online as per the format at Appendix-IA including Annexure I to V;

(b) Documents listed at clause 2.11.2 are received physically;

(c) Technical Bid is accompanied by the Bid Security as specified in Clause 2.1.7 and 2.1.8;

(d) Technical Bid is accompanied by the Power of Attorney as specified in Clauses 2.1.9;

(e) Technical Bid is accompanied by Power of Attorney for Lead Member of Consortium and the Joint Bidding Agreement as specified in Clause 2.1.10, if so required;

(f) Technical Bid contain all the information (complete in all respects);

(g) Technical Bid does not contain any condition or qualification;

(h) Integrity pact as per format given in Appendix VI has been submitted by the Bidder with the Bid duly signed by authorised signatory;

(i) Technical Bid contains original demand draft of Rs xxxx (Rupees *****only) towards cost of Bidding Documents'

(j) it is not non-responsive in terms hereof.

3.2.2 The Authority reserves the right to reject any Technical Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

3.3 Evaluation parameters

3.3.1 Only those Bidders who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3. Bids of firms/ consortia who do not meet these criteria shall be rejected.

3.3.2 A Bidder's competence and capability is proposed to be established by the following parameters:

(a) Technical Capacity; and

(b) Financial Capacity

3.4 Technical Capacity for purposes of evaluation

3.4.1 Subject to the provisions of Clause 2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the "Eligible Experience") in relation to eligible projects as stipulated in Clauses 3.4.3 and 3.4.4 (the ''Eligible Projects"):

Category 1: Project experience on Eligible Projects in highways sector that qualify under Clause 3.4.3

Category 2: Project experience on Eligible Projects in core sector that qualify under Clause 3.4.3

Category 3: Construction experience on Eligible Projects in highways sector that qualify under Clause 3.4.4

Category 4: Construction experience on Eligible Projects in core sector that qualify' under Clause 3.4.4

For the purpose of this RFP:

a) highways sector would be deemed to include highways, expressways, bridges, tunnels, runways, railways (construction/ re construction of railway tracks, yards for keeping containers etc.) metro rail and ports (including construction/ re construction cost of jetties, any other linear infrastructure including bridges etc.): and

b) core sector would be deemed to include civil construction cost of power sector commercial setups (SEZs etc.) "airports, industrial parks / estates, logistic parks, pipelines, irrigation, water supply, sewerage, stadium, hospitals, hotel, smart city, warehouses/silos, oil & gas and real estate development. Core sector will also include the projects with the title of RIDF, PMGSY road, link road, city roads, rural road, sector/ municipality road, real estate projects which demonstrate road development/ construction of bridges or culverts.

i. In case of projects executed by applicants under category 3 and 4 as a member of Joint Venture, the project cost should be restricted to the share of the applicant in the joint venture for determining eligibility as per provision under clause 2.2.2(AA) and 2.2.2(AAA). In case Statutory Auditor certifies that, the work of other member(s) is also executed by the applicant, then the total share executed by applicant can be considered for determining eligibility as per provision under clause 2.2.2(AA) and 2.2.2(AAA).

ii. Maintenance works are not considered as eligible projects for evaluation as per Instruction No.6 to Annex-IV. As such works with nomenclature like PR, OR, FDR,SR, site/micro grading, surface renewal, resurfacing work, Tarring, B.T. surface work, temporary restoration, urgent works, periodic maintenance, repair & rehabilitation, one time maintenance, permanent protection work of bank, external pre stressing, repair of central hinge, short term OMT contract, any type of work related to border fencing, work of earthwork alone, construction of buildings/hostels, etc., or not specified, shall not be considered.

iii. In case both the estimated cost of project and revised cost of project are provided, the revised cost of project shall be considered for evaluation.

3.4.2 Eligible Experience in respect of each category shall be measured only for Eligible Projects.

3.4.3 For a project to qualify- as an Eligible Project under Categories 1 and 2:

(a) It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity;

(b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty-six per cent) equity during the entire year for which Eligible Experience is being claimed;

(c) the capital cost of the project should be more than Rs. 892.80 Cr. (Rupees Eight Hundred and Ninety-Two Crore and Eighty Lacs Only.); and

(d) the entity claiming experience shall, during the last 10 (ten) financial years preceding the Application Due Date, have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from highways, airports, ports and railway infrastructure, but shall not include revenues from sale or provision of goods or services such as electricity, gas, petroleum products telecommunications or fare/freight revenues and other incomes of the company owning the Project.

3.4.4 For a project to qualify as an Eligible Project under Categories 3 and 4, the Bidder should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 10 (ten) financial years immediately preceding the Bid Due Date, and only the payments (gross) actually made or received, as the case may be, during such 10 (ten) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than Rs. 892.80 Cr. (Rupees Eight Hundred and Ninety-Two Crore and Eighty Lacs Only.); shall not be reckoned as payments/receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include

supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.

3.4.5 The Bidders shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.

3.4.6 A Bidder's experience shall be measured and stated in terms of a score (the **"Experience Score"**). The Experience Score for an Eligible Project in a given category would be the eligible payments and/or receipts specified in Clause 2.2.2 (A), divided by one crore and then multiplied by the applicable factor in Table 3.4.6 below. In case the Bidder has experience across different categories, the score for each category would be computed as above and then aggregated to arrive at its Experience Score.

Table 3.4.6: Factors for Experience across categories

	Factor
Category 1	1.25
Category 2	1.0
Category 3	0.75
Category 4	0.50

3.4.7 The Experience Score determined in accordance with Clause 3.4.6 in respect of an Eligible Project situated in a developed country which is a member of OECD, which will be further multiplied by a factor of 0.5 (zero point five) and the product thereof shall be the Experience Score for such Eligible Project.

3.4.8 Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

3.4.9 (a)The Experience Score of the Bidder shall be computed as a weighted average of the Experience Score of a member and its proposed equity stake (%) in the Consortium,

(b) Similarly, the Financial Score of the Bidder shall be computed as a weighted average of the Financial Score of a member and its proposed equity stake (%) in the Consortium

Provided that the financial strength or the experience score taken into assessment will be only of those who contribute a minimum 26% share to the Consortium.

Illustration:

For illustration and avoidance of any doubts, the following method is placed in clarification:

If Company A (Net-Worth: Rs 1000 crores) & Company B (Net-Worth: Rs 500 crores) in a Consortium with shareholding of A as 60% and B as 40% then the Weighted Financial Score of the Consortium shall be:

For Weighted Financial Score

1000 X 60% + 500X40%) = 800 Crores

For Weighted Experience Score

If Company A has been assessed to have an Experience Score of1000 and Company B has been assessed to have an Experience Score of 500, in a Consortium with shareholding of A as 60% and B as 40%, then the Weighted Experience Score of the Consortium shall be

1000X60% 4- *500X40% = 800*

3.5 Details of Experience

3.5.1 The Bidders should furnish the details of Eligible Experience for the last 10 (ten) financial years immediately preceding the Bid Due Date.

3.5.2 The Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-1 A.

3.5.3 The Bidders should furnish the required Project-specific information and evidence in support of its claim

of Technical Capacity, as per format at Annex- IV of Appendix-IA.

3.5.4 Deleted

3.6 Financial information for purposes of evaluation

3.6.1 The Bids must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Bid is made.

3.6.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make the same available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

3.6.3 The Bidder must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-IA.

3.6.4 In case of foreign companies, a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium Member in the formats provided in the country where the project has been executed shall be accepted, provided it contains all the information as required in the prescribed formal of the RFP.

3.6.5 Deleted

(i) In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority may reject / correct such claim for the purpose of qualification requirements.

(ii) The Authority will get the Bid security verified from the issuing authority and after due verification, the Authority will evaluate the Technical Bids for their compliance to the eligibility and qualification requirements pursuant to clause 2.2.1 & 2.2.2 of this RFP.

(iii) After evaluation of Technical Bids, the Authority will publish a list of technically responsive Bidders whose Financial Bids shall be opened. The Authority shall notify other Bidders that they have not been technically responsive. The Authority will not entertain any query or clarification from Bidders who fail to qualify.

3.7 Opening and Evaluation of Financial Bids

The Authority' shall inform the venue and time of online opening of the Financial Bids to the Technically responsive Bidders through e-procurement portal of B-SMILE and e-mail. The Authority shall online open the Financial Bids on date and time to be informed in this clause in the presence of the authorised representatives of the Bidders who may choose to attend. The Authority shall publicly announce the assessed Bid Price for each of the technically responsive Bidder. The Authority shall prepare a record of opening of Financial Bids.

3.8 Selection of Bidder

Subject to the provisions of Clause 2.16.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2 and who quotes lowest amount of Total Concession Value (TCV) in accordance with Appendix-IB shall be declared as the selected Bidder (the "Selected Bidder"). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bid hereunder. the Bidder shall be declared as the selected Bidder (the "Selected Bidder") in pursuance to the procedure defined hereunder:

i. Among all the responsive Bidder, whose Bid quote is the lowest in terms of TCV quoted will be termed as L1. If L1 is 'Class -I Local Supplier', the contract will be awarded to L1, the Selected Bidder.

ii. If L1 is not 'Class – I Local Supplier', the lowest Bidder among the 'Class – I Local Supplier', will be invited to match the lowest TCV bid by the L1, the Selected Bidder subject to 'Class-I Local Supplier's quoted price falling within the margin of Purchase Preference, the contract will be awarded to such 'Class– I local supplier' subject to matching the quote of L1 for TCV.

iii. In case, such eligible 'Class – I Local Supplier' fails to match the TCV amount quoted by L1 Bidder, the 'Class – I Local Supplier' with the next lowest quote for TCV in the Bid within the margin of

Purchase Preference shall be invited to match the quoted TCV amount of L1 and so on and contract shall be awarded to such Bidder matching the L1 Quote. In case none of the 'Class – I Local Supplier' within the Margin of Purchase Preference matches the L1 quoted TCV amount, the contract shall be awarded to the L1 Bidder.

'Margin of Purchase Preferences' in the above pretext means the maximum extent to which the price quoted by a 'Class – I Local Supplier' may be above the L1 for the purpose of Purchase Preference. The margin of Purchase Preference shall be 20%.'

3.8.1 In the event that two or more Bidders quote the same amount of TCV (the "Tie Bidders"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.8.2 In the event that the Lowest Bidder withdraws or is not selected for any reason, the Authority shall annul the Bidding Process and invite fresh Bids. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

3.8.3 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7(seven)days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA.

3.8.4 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

3.9 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/or their employees/ representatives on matters related to the Bids under consideration.

3.10 Correspondence with Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

3.11 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

3.12 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.

4. FRAUD AND CORRUPT PRACTICES

4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement, or otherwise.

4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter, respectively assigned to them:

(a) "**corrupt practice**" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.1.15 of this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

(b) "**Fraudulent practice**" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

(c) "**Coercive practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

(d) "**Undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

(e) "**Restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

4.4 Bidder shall comply with the provisions of office Memorandum No. 13030/09/2008- vig dated 28.01.2013 issued by NHAI i.e. Model Agreement for Integrity Pact (IP), (format given in Appendix VI) shall be submitted by the Bidder along with the Bid duly signed by the authorised signatory of the Bidder and shall be deemed to be a part of the Concession Agreement.

5. PRE-BID CONFERENCE

5.1 Pre-Bid conference of the Bidders shall be convened at the designated date, time and place. A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.

5.2 During the course of Pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

5.3 The Bidder may submit their queries/suggestions with the Authority in the below format.

Name of Bidder	Sr.No.	Document (RFP/DCA/etc)	Clause	Page No.	Comment

6. MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Bengaluru shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

(a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Bidder in order to receive clarification or further information.

(c) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or

(d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

APPENDIX

APPENDIX – IA

Letter comprising the Technical Bid

(Refer Clauses 2.1.5 and 2.11 and 3.2)

Dated

To,

The Superintending Engineer
Bengaluru Smart Infrastructure Limited (B-SMILE)
3rd Floor, # 30/1, Thimmaiah Road, Millers Tank Bund Area,

Vasanthnagar, Bengaluru-560 052

Sub: Bid for Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).

Dear Sir,

1. With reference to your RFP document no._dated *****, I/we, having examined the RFP document and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.

3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.

5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:

   (a) I/ We have examined and have no reservations to the RFP document, including any Addendum issued by the Authority.

   (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1 (d) of the RFP document; and

   (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and

   (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16 of the RFP document.

9. I/We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Net Worth criteria and meet(s) all the requirements as specified in the RFP document.

10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a member of a/ any other Consortium submitting a Bid for the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

13. I/ / We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.

14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GO1 vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines forms part of the RFP at Appendix-VI thereof.

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.

    (a) The Statement of Legal Capacity as per format provided at Annex-V in Appendix-IA of the RFP document, and duly signed, is enclosed. The Power of Attorney for Signing of Bid and the Power of Attorney for Lead Member of Consortium, as per format provided at Appendix III and IV respectively of the RFP, are also enclosed.

    (b) I/We hereby confirm that we are in compliance of/ shall comply with the O&M requirements specified in Clause 2.2.3.

16. I/ We acknowledge and undertake that our Consortium is qualified on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for the period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six percent) of the subscribed and paid up equity of the Concessionaire; and (ii) 5% (five percent) of the Total Project Cost specified in the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.

17. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity shall be taken into consideration for the purposes of selection as Concessionaire under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

18. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013 or shall incorporate as such prior to execution of the Concession Agreement.

19. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the

selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.

20. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

21. I/ We have studied all the Bidding Documents carefully and also surveyed the project highway and the traffic. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.

22. I/ We offer a Bid Security of Rs. 44.64 Cr. Only (Rupees Forty-Four Crore and Sixty-Four Lacs Only)to the Authority in accordance with the RFP Document.

23. Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.

24. The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".

25. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.

26. The TCV has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and traffic and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

27. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

28. {We, the Consortium Members, agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.}

29. I/ / We certify that in terms of the RFP, my/our Net worth is Rs…….. (Rs. In words) and Experience Score …… (number in words).

30. I/We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.

31. (a) The EPC contractor/s who would be executing EPC works of the Project are …….. and it is confirmed that these contractors meet the minimum criterion as set out in Clause 2.1.23 of the RFP.

    (b) It is irrevocably agreed that the value of any contract for the EPC works awarded shall not be less than 20% of the Estimated Project Cost or 500 crores, whichever is less.

    (c) It is also agreed that any change of EPC contractor(s) would be with prior written approval of the Authority. We agree that the Authority shall grant such permission only and only if the substitute proposed is of the required technical capability as applicable.

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised signatory)

Place: Name and seal of Bidder/Lead Member

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, or modified as necessary to reflect Bidder-specific particulars.

APPENDIX – IB

Letter comprising the Financial Bid

(Refer Clauses 2.1.5, 2.11.1 and 3.2)

(NOT TO BE SUBMITTED IN THE TECHNICAL Bid)

To,

The Superintending Engineer
Bengaluru Smart Infrastructure Limited (B-SMILE)
3rd Floor, 30/1, Thimmaiah Road, Millers Tank Bund Area,
Vasanthnagar, Bengaluru-560 052

Dated: -

SUB: Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745)..

Dear Sir,

With reference to your RFP document dated *** **, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. The Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, Draft Concession Agreement and its Schedules, our own estimates of traffic and costs and after a careful assessment of the site and all own the conditions that may affect the Project traffic and cost and implementation of the Project.
4. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
6. I/We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.
7. I/ We hereby submit our Bid and offer:

THAT we propose a Total Concession Value of Rs. ____ (Rupees __ only) for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.

Yours faithfully,

Date: (Signature, name and designation of the

Place: Authorised Signatory)

Name & seal of Bidder/Lead Member:.....

Class III DSC ID of Authorised Signatory:……...

Note:

1. Total Concession Value (TCV) represents the NPV (Net Present Value, as on Appointed Date) of the toll revenues that the Concessionaire seeks to recover during the concession period to cover all costs associated with the Project in a financially viable manner.

2. The TCV shall reflect the additional revenue necessary for the Concessionaire, in addition to the Viability Gap Funding (VGF) from the Authority and Ancillary Revenue streams (as defined in the Concession Agreement, Clause 3.1.2. (h)) to cover all project-related costs, including construction, financing, and operation and maintenance (O&M) expenses, within the projected concession period. The project will be awarded to the bidder offering the lowest TCV.
3. The Concession Period is variable, as indicated in the Concession Agreement (Refer Clause 3.1.1. (A) of the Concession Agreement). While the Authority has an Estimated Concession Period of 34 years, starting from the Appointed Date, (including 4 years 2 months of construction) based on its financial modeling, the Concession Period may be extended beyond this estimate (to a maximum of 44 years), if the NPV of toll revenues collected during the Estimated Concession Period (discounted at the rate set by the Authority) falls short of the Total Concession Value (TCV) quoted by the Selected Bidder at the time of bidding. Conversely, the Concession Period may be terminated as soon as the present value of toll revenues collected during the period becomes equal to the TCV quoted by the Concessionaire.
4. The Concession Period has no minimum duration and shall be terminated as soon as the NPV of toll revenues collected by the Concessionaire meets the bid TCV amount.

Appendix IA

Annex-I

Details of Bidder

(a) Name:

(b) Country of incorporation:

(c) Address of the corporate headquarters and its branch office(s), if any, in India:

(d) Date of incorporation and/ or commencement of business:

2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:

3. Details of individual(s) who will sene as the point of contact/ communication for the Authority:

   (a) Name:

   (b) Designation:

   (c) Company:

   (d) Address:

   (e) Telephone Number:

   (f) E-Mail Address:

   (g) Fax Number:

4. Particulars of the Authorized Signatory of the Bidder:

   (a) Name:

   (b) Designation:

   (c) Address:

   (d) Phone Number:

   (e) Fax Number:

5. In case of a Consortium:

   (a) The information above (1 -4) should be provided for all the Members of the Consortium.

   (b) A copy of the Joint Bidding Agreement, as envisaged in Clause 2.1.16 (g) should be attached to the Application.

   (c) Information regarding the role of each Member should be provided as per table below:

Appendix IA

Annex-I

SI. No.	Name of Member	Role* {Refer Clause 2.1.16(d)}[$]	Percentage of equity in the Consortium {Refer Clauses 2.1.16(a), (c)&(g)}
1.			
2.			
3.			
4.			

* The role of each Member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at Annex-IV.

(d) The following information shall also be provided for each Member of the Consortium:

Name of Bidder/ member of Consortium:

S.No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred[£] by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

6. (a) I/ We certify that in the last two years, we/any of the JV partners or Members of Consortium or/and Associate have neither failed to perform for the works of Expressways, National Highways, ISC & El works, as evidenced by Imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitral award against us, nor been expelled - or terminated by Ministry of Road Transport & Highways or its implementing agencies for breach on our part.

(b) I/ We certify that we/ any of the JV partners or Members of Consortium or/and Associates do not fall in any of the categories of being ineligible/ Non-Performing entity given at Clause 2.1.16 (a) of Section-2: Instructions to Bidders in the projects of Expressways, National Highways, ISC and El works of Ministry of Road Transport & Highways or its implementing agencies (NHAI/NHIDCL/ State PWDs) and furnished the complete details.

7. (a) I/ We further certify that no investigation by a Regulatory Authority is pending either against us/any member of Joint Venture or Associates or our sister concern or against our CEO or any directors/managers/employees. of our directors/ managers/ employees.

(b) I/We further certify that no Investigation by any investigating agency in India or outside is pending either against us/ any member of Joint Venture or Associates or our sister concern or against our CEO or any of our

[$] All provisions contained in curly parenthesis shall be suitably modified by the Bidder to reflect the particulars relating to such Bidder.

[£] or has been declared by the Authority as non performer/blacklisted.

directors/managers/employees.

A statement by Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance in past projects, contractual disputes and litigation/arbitration in the recent past, as on bid due date is given below (attach extra sheets, if necessary) w.r.t. Clause 2.1.17.

Name of the Bidder/Member of JV/ or Members of Consortium or Associate:

Sr. no	Categories of Non – Performer	Name of Project(s)
i.	Fails to set up institutional mechanism and procedure as per contract.	
ii.	Fails to mobilize key construction equipment within a period of 4 months from the Appointed Date.	
iii.	Fails to complete or has missed any milestone and progress not commensurate with contiguous unencumbered project length /ROW available even after lapse of 6 months from respective project milestone/Schedule Completion date, unless Extension of Time has been granted due to Authority's Default or Force Majeure.	
iv.	Falls to achieve progress commensurate with funds released from Escrow Account (Equity Debt Grant) in BOT or HAM project and variation is more than 25% in the last 365 days.	
v.	Fails to achieve the target progress or complete the project as per schedule agreed at the time of sanctioning of funds under One Time Funds Infusion (OTFI) or relaxations to contract conditions to improve cash flow solely on account of Concessionaire's/contractor's failure/default.	
vi.	Fails to complete rectification (excluding minor rectifications) as per time given in non-conformity reports (NCR) In design/completed works/ maintenance or reported in Inspection Reports issued by Quality Inspectors deployed by the Authority or Officers of the Authority.	
vii.	Fails to complete minor rectifications exceeding 3 instances in a project as per time given in non-conformity reports (NCR) design/completed works/maintenance.	
viii.	Fails to fulfil its obligations to maintain a highway in a satisfactory condition in spite of two rectification notices issued in this regard.	
ix.	Damages/penalties recommended Independent/Authority's by Engineer during O&M Period and remedial works are still not taken up.	
x.	Falls to complete Punch list Items even after lapse of time for completion of such items excluding delays attributable to the Authority.	
xi.	Occurrence of minor failure of structures/highway due to construction defect wherein no causalities are reported (causalities include injuries to human being / animals).	

xii.	Occurrence of major failure of structures/highway due to construction defect wherein no casualties are reported (causalities include injuries to human being/animals).	
xiii.	Occurrence of major failure of structures/highway due to construction defect leading to loss of human lives besides loss of reputation etc. of the authority.	
xiv	Fails to make premium payments excluding the current Instalment in one or more projects.	
xv.	Fails to achieve financial closure in two or more projects within the given or extended period (which shall not be more than six months in any case).	
xvi.	Fails to submit the Performance Security within the permissible time period In more than one project.	
xvii.	Rated as an unsatisfactory performing entity/non-performing entity by an Independent third-party agency and so notified on the website of the Authority.	
xviii.	Failed to perform for the works of Expressways, National Highways, ISC & EI works in the last 2(two) years, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement! or arbitral award against the Bidder, including individual or any of its Joint Venture Member, as the case may be.	
xix.	Expelled from the contract or the contract terminated by the Ministry of Road Transport & Highways or its implementing agencies for breach by such Bidder, including Individual or any of its Joint Venture Member; Provided that any such decision of expulsion or termination of contract leading to debarring of the Bidder from further participation in bids for the prescribed period should have been ordered after affording an opportunity of hearing to such party.	
xx.	Fails to start the works or causes delay in maintenance & repair/overlay of the project.	

I/ We certify that the list is complete and covers all the projects of Expressways, National Highways, ISC and EI works of Ministry of Road Transport & Highways or its implementing agencies (NHAI/ NHIDCL/ State PWDs) and that we/ any of the JV partners or Members of consortium or Associate do not fall in any of the above categories of being a Non-Performing entity.

Appendix IA

Annex-II

ANNEX-II

Technical Capacity of the Bidder[@]

{Refer to Clauses 2.2.2(A), 3.4 and 3.5 of the RFP}

Bidder type[#]	**Proposed Equity Shareholding in Consortium (%)**	**Member Code***	**Project Code****	**Cate-gory[$]**	**Experience[¥]** (Equivalent Rs. crore)[$$]			**Experience Score[£]**
					Payments made/ received for construction of Eligible Projects in Categories 3 and 4	Payments made for development of Eligible Projects in Categories 1 and 2	Revenues appropriated from Eligible Projects in Categories 1 and 2	
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**	**(9)**
Single entity Bidder			a					
			b					
			c					
			d					
Consortium Member I			1a					
			1b					
			1c					
			1d					
Consortium Member 2			2a					
			2b					
			2c					
			2d					
Consortium Member 3			3a					
			3b					
			3c					
			3d					
Consortium Member 4			4a					
			4b					
			4c					
			4d					
Aggregate Experience Score =								

Appendix IA

Annex-II

@ Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.1.19 and/ or by a project company eligible under Clause 3.4.3(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.4.3(c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.4.4. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.1.22.

 # A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.1.19, shall be provided.

** Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.*

*** Refer Annex-IV of this Appendix-IA. Add more rows if necessary'.*

$ Refer Clause 3.4.1.

¥ In the case of Eligible Projects in Categories 1 and 2, (he figures in columns 7 and 8 may be added for computing the Experience Score of the respective projects. In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.

$$ For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 60 (Sixty) to a US Dollar. In case of any' other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) day's prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary' Fund for the relevant date.

£ Divide the amount in the Experience column by one crore and then multiply the result thereof by (he applicable factor set out in Table 3.4.6 and in case of a Consortium, further multiply the result thereof by the proposed equity shareholding of the applicable Member, to arrive at the Experience Score for each Eligible Project. In the case of an Eligible Project situated in an OECD country, the Experience Score so arrived at shall be further multiplied by 0.5, in accordance with the provisions of Clause 3.4.7, and the product thereof shall be the Experience Score for such Eligible Projects. Above all, the sum total of columns 6, 7 and 8, as the case may be, in respect of each Eligible Project shall be restricted to a ceiling equivalent to the Estimated Project Cost, as specified in Clause 3.4.8.

Appendix 1A

Annex-III

ANNEX-III

Financial Capacity of the Bidder

{Refer to Clauses 2.2.2(B), 2.2.4 (it) and 3.6 of the RFP)

(In Rs. Crore[$$])

Bidder type[$]	Member Code[£]	Proposed Equity Shareholding in Consortium (%)	Net Cash Accruals					Net Worth[€]
			Year 1	Year 2	Year 3	Year 4	Year 5	Year 1
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	*9)
Single entity Bidder								
Consortium Member 1								
Consortium Member 2								
Consortium Member 3								
Consortium Member 4								
TOTAL								

Name & address of Bidder's Bankers:

[$$] For conversion of other currencies into rupees, see note below Annex-II of Appendix-IA.

[$] A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

[£] For Member Code, see instruction 4 at Annex-IV of this Appendix-IA.

[€] The Bidder should provide details of its own Financial Capability or of an Associate specified in Clause 2.1.19.

Appendix 1A

Annex-III

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Bid Due Date. The financial statements shall:
   (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
   (b) be audited by a statutory auditor;
   (c) be complete, including all notes to the financial statements; and
   (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Net Cash Accruals shall mean Profit After Tax + Depreciation.
3. Net Worth shall mean aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated loses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.
4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.1.22.
5. In the case of a Consortium, a copy of the Joint. Bidding Agreement shall be submitted in accordance with Clause 2.1.16 (g) of the RFP document.
6. The Bidder shall also provide the name and address of the Bankers to the Bidder.
7. The Bidder shall provide an Auditor's Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.4 (ii) of the RFP document.

Appendix I

Annex-IV

ANNEX-1V

Details of Eligible Projects

(Refer to Clauses 2.2.2(A), 3.4 and 3.5 of the RFP)

Project Code: Member Code:

Item (1)	Refer Instruction (2)	Particulars of the Project (3)
Title & nature of the project		
Category	5	
Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/ or (c) revenues appropriated	6	
Entity for which the project was constructed/ developed	7	
Location		
Project cost	8	
Date of commencement of project/ contract		
Date of completion/ commissioning	9	
Equity shareholding (with period during which equity was held)	10	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	16	

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.4.3 and 3.4.4 of the RFP, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Bid. Bidders should also refer to the Instructions below.
2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a Consortium then for Member 1, the Project Codes would be la, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.
3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder.

   For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member. OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write "Associate" along with Member Code.
5. Refer to Clause 3.4.1 of the RFP for category number.
6. The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Annex-II of this Appendix-IA. The figures to be provided here should indicate the break-up for the past 10

(ten) financial years. Year 1 refers to the financial year immediately preceding the Bid Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on (Refer Clause 2.1.22). For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.4.3(c). In the case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.4.4. Payment for construction works should only include capital expenditure and should not include expenditure on repairs and maintenance.

7. In the case of projects in Categories land 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In the case of projects in Categories 3 and 4, similar particulars of the client need to be provided.

8. Provide the estimated capital cost of Eligible Project. Refer to Clauses 3.4.3 and 3.4.4

9. For Categories 1 and 2, the date of commissioning of the project, upon completion, should be indicated. In the case of Categories 3 and 4, the date of completion of construction should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.

10. For Categories 1 and 2, the equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.4.3).

11. Experience of any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

12. Certificate from the Bidder's statutory auditor[$] or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/ Member/Associate may provide the requisite certification.

[$] In case duly certified audited annual financial statements containing the requisite details arc provided, a separate certification by statutory auditors would not be necessary.

13. If the Bidder is claiming experience under Categories I & 2[£], it should provide a certificate from its statutory auditor in the format below:

Certificate from the Statutory Auditor regarding PPP projects[µ]

Based on its books of accounts and other published information authenticated by it, this is to certify that…….. (*nameof the Bidder/Member/Associate)* is/ was an equity shareholder in……. *(title of the project company)* and holds/held Rs…… cr. (Rupees…….crore) of equity (which constitutes …….%[€] of the total paid up and subscribed equity capital) of the project company from……. *(date)* to ..... *(date)*[¥]. The project was/is likely to be commissioned on…… *(dateof commissioning of the project).*

We further certify that the total estimated capital cost of the project is Rscr. (Rupees…… crore), of which Rs…… cr. (Rupees……crore) of capital expenditure was incurred during the past ten financial years as per year-wise details noted below:

…….

……..

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.4.1 and 3.4.3 (d) of the RFP during the past ten financial years were Rs……..cr. as per year-wise details noted below:

……..

……

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory)

Date:

[£] Refer Clause 3.4.1 of the RFP

[µ] Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

[€] Refer instruction no. 10 in this Annex-IV.

[¥] In case the project is owned by the Bidder company, this language may be suitably modified to read: "It is certified that (name of Bidder) constructed and/ or owned the (name of project) from (date) to (date)

14. If the Bidder is claiming experience under Category 3 & 4♣, it should provide a certificate from its statutory auditors or the client in the format below:

Certificate from the Statutory Auditor/ Client regarding construction works[μ]
Based on its books of accounts and other published information authenticated by it, {this is to certify that……. *(name of the Bidder/Member/Associate)* was engaged by …… *(title of the project company)* to execute ……. *(name of project)* for……. *(nature of project)*[Ψ]*}*. The construction of the project commenced on ……*(date)* and the project was/ is likely to be commissioned on……... *(date, if any).* It is certified that……. *(name of the Bidder/ Member/ Associate)* received/paid Rs ……. cr. (Rupees ……. crore) by way of payment for the aforesaid construction works.

We further certify that the total estimated capital cost of the project is Rs..... cr. (Rupees crore), of which the Bidder/Member/Associate received/paid Rs..... ……. cr. (Rupeescrore), in terms of Clauses 3.4.1 and 3.4.4 of the RFP, during the past ten financial years as per year-wise details noted below:

……

……

{It is further certified that the payments/ receipts indicated above are restricted to the share of the Bidder who undertook these works as a partner or a member of joint venture/ Consortium.}[¥]

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory)

Date:

♣ Refer Clauses 3.4.1 and 3.4.4 of the RFP.

μ Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate., if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

Ψ In case the Bidder owned the Eligible Project and engaged a contractor for undertaking the construction works, this language may be modified to read: " this is to certify that …….(name of Bidder/ Member/Associate) held 26% or more of the paid up and subscribed share capital in the……. (name of Project company) when it undertook construction of the……(name of Project) through ……(name of the contractor).

¥ This certification should only be provided in case of jobs/ contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate should be restricted to the share of Bidder in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a partnership/joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.1.19, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate[$]

Based on the authenticated record of the Company, this is to certify that more than 25% (twenty five per cent) of the subscribed and paid up voting equity of ..... *(name of the Associate)* is held, directly or indirectly[£], by *(name of Bidder /Consortium Member).* By virtue of the aforesaid shareholding, the latter exercises control over the former, who is an Associate in terms of Clause 2.1.18 of the REP.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the shareholding of the Bidder/ Consortium Member in the Associate}

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of Date: the authorised signatory).

16. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Experience Score.

[$] In the event that the Bidder/ Consortium Member exercises control oven an Associate by operation of law', this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 25% in order to establish that the chain of "control" is not broken.

Appendix IA
Annex-V

ANNEX-V

Statement of Legal Capacity
(To be forwarded on the letterhead of (he Bidder / Lead Member of Consortium)

Ref. Date:

To,

The Superintending Engineer
Bengaluru Smart Infrastructure Limited (B-SMILE)
3rd Floor, 30/1, Thimmaiah Road, Millers Tank Bund Area,
Vasanthnagar, Bengaluru-560 052

Dear Sir.

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the REP document.

We have agreed that ..... (insert member's name) will act as the Lead Member of our Consortium. *

We have agreed that ..... (insert individual's name) will act as our representative/ will act as the representative of the Consortium on its behalf* and has been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,
(Signature, name and designation of the authorised signatory)

For and on behalf of.....

**Please strike out whichever is not applicable.*

APPENDIX-IA
Annexure VI

Guidelines of the Department of Disinvestment
(Refer Clause 1.2.1)
No. 6/4/2001-DD-l I
Government of India
Department of Disinvestment
Block 14, CGO Complex
New Delhi.
Dated 13th July, 2001.
OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

(a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case-to-case basis after considering the facts of the case and relevant legal principles, by the Government of India.

(b) In regard to matters relating to the security and integrity of the country, any chargesheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

(c) In both (a) and (b), disqualification shall continue for a period that the Government deems appropriate.

(d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

(e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.

(f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity' to explain its position.

(g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India

APPENDIX - II

Bank Guarantee for Bid Security
(Refer Clauses 2.1.6 and 2.20.1)

B.G. No. Dated:

1. 1 In consideration of you. Bengaluru Smart Infrastructure Limited (B-SMILE), having its office at 3rd Floor, # 30/1, Thimmaiah Road, Millers Tank Bund Area, Vasanthnagar, Bengaluru-560052, India. (hereinafter referred to as the "Authority", which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of (a Company registered under Companies Act, 1956/2013) and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on Modified BOOT Mode. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745). (hereinafter referred to as "the Project") pursuant to the RFP Document dated issued in respect of the Project and other related documents including without limitation the draft Concession Agreement (hereinafter collectively referred to as "Bidding Documents"), we (Name of the Bank) having our registered office at and one of its branches at

   (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. ***** Crores (Rupees ***** only) (hereinafter referred to as the "Guarantee") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.

2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.

3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. ♦♦♦♦* Crores (Rupees *♦**♦»* only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 120 (one hundred and twenty) days from the Bid Due Date and a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.

7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, al the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.

11. We. the Bank further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

12. The Bank declares that it has the power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. ***** Crores (Rupees ♦♦♦♦* only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before ***** (indicate date falling 180 days after the Bid Due Date).

Signed and Delivered by..... Bank

By the hand of Mr./Ms..... ..

Its and authorised official.

(Signature of the Authorised Signatory')

(Official Seal)

Appendix-III

Format for Power of Attorney for signing of Bid
(Refer Clause 2.1.9)

Know all men by these presents, We,..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms. (Name), son/daughter/wife of and presently residing at who is presently employed with us/ the Lead Member of our Consortium and holding the position of....., as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).proposed or being developed by the Bengaluru Smart Infrastructure Limited (B-SMILE) (the "Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ... THE ABOVE NAMED

PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF ,20

For

(Signature, name, designation and address)

of person authorized by Board

Resolution (in case of Firms/Company)/Partner in case of

Partnership Firms

Witnesses:

Notarised

Notarised

Person identified by me/personally appeared before me /signed before me/Attested/Authenticated* (*Notary to specify as applicable) (Signature, Name and Address of the Notary') Seal of the Notary Registration Number of the Notary' Date _____

Accepted

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX-IV

Format for Power of Attorney for Lead Member of Consortium

(Refer Clause 2.1.10)

Whereas the Bengaluru Smart Infrastructure Limited (B-SMILE) ("the Authority") has invited bids from interested parties for the Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on Modified BOOT Mode. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745).

(the Project"). Whereas ....., ... and (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We,.....having our registered office at .....M/s..... . having our registered office at ..... and..... M/s..... . having our registered office at ..... (hereinaftercollectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s .... having its registered office at....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders' and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS .....DAY OF..... 20.....

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

Witnesses:

(Executants) (To be executed by all the Members of the Consortium)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should*

be under common seal affixed in accordance with the required procedure.

- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, (the documents will also have to be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX V

Format for Joint Bidding Agreement for Consortium
(Refer Clause 2.1.10 & 2.1.16(g))

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the ..... day of

20...

AMONGST

1. {..... Limited, and having its registered office at ..... } (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, having its registered office at ..... } and (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, and having its registered office at .....} (hereinafter referred to as the "Third Part'* which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST, {SECOND and THIRD) PART are collectively referred to as the "Parties" and each is individually referred to as a "Party"

WHEREAS,

(A) Bengaluru Smart Infrastructure Limited (B-SMILE), established under the …….. represented by its ……. and having its principal offices at 3rd Floor, # 30/1, Thimmaiah Road, Millers Tank Bund Area, Vasanthnagar, Bengaluru-560052, India (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the Bids") by its Request for Proposal No ..... dated

(the "RFP") for award of contract for Design and Construction of Design and Construction of 3-Lane Underground Twin Tunnel Road from Hebbal Esteem Mall junction (Km. 0+000) to Silk Board KSRP Junction (Km.16+745) along with 3-lane/2-lane entry & exit ramps including operation and maintenance in Bengaluru City (North South Corridor) – on MODIFIED BOOT MODE. Package-2 Seshadri Road (Km 8.748) to Silk Board (Km 16.745). (the "Project") through public private partnership.

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

(C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows

1. **Definitions and Interpretations**

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. **Consortium**

2.1 The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. **Covenants**

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "SPV") under the Indian Companies Act 1956/2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. **Role of the Parties**

The Parties hereby undertake to perform the roles and responsibilities as described below:

(a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding

Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;

(b) Party of the Second Part shall be {the Technical Member of the Consortium;

(c) Party of the Third Part shall be the Financial Member of the Consortium; and}

(d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.

5. **Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. **Shareholding in the SPV**

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

{Third Party:}

{Fourth Party:}

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of qualification of the Bidder for the Project in terms of the RFP.

6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed, and paid-up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.

6.4 The Parties undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity share capital of the SPV at all times until the second anniversary of the commercial operation

date of the Project.

6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

6.6 The Parties undertake that the O&M Member shall subscribe and hold at least 10% (ten per cent) of the subscribed and paid-up equity shares in the SPV in terms of the Concession Agreement.

7. **Representation of the Parties**

Each Party represents to the other Parties as of the date of this Agreement that:

(a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery' and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval not already obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets arc bound or that is otherwise applicable to such Part)'; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects, or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. **Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or docs not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified/selected or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. **Miscellaneous**

9.1 This Joint Bidding Agreement shall be governed by laws of {India}.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

10. For and on behalf of
11. THIRD PART

(Signature)
(Name)

For and on behalf of FOURTH PART

(Signature)
(Name)

SIGNED, SEALED AND DELIVERED For and on behalf of FIFTH PART

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED
For and on behalf of SIXTH PART

(Signature)
(Name)
(Designation)
(Address)

(Designation)
(Address)

(Designation)
(Address)

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED
For and on behalf of
LEAD MEMBER by:

SECOND PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

For and on behalf of
THIRD PART

For and on behalf of FOURTH PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

1. 2.

Notes'.

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX VI

Integrity pact *(Refer clause 4.4)*

**********(the "Project") through an public private partnership.

(_____Division)

Tender No._____

This Integrity Pact is made at _____on this _____day of 20XX

Between

Bengaluru Smart Infrastructure Limited (B-SMILE), established under the …….... which has been entrusted with the responsibility of development, maintenance and management of this Project, having its office at 3rd Floor, # 30/1, Thimmaiah Road, Millers Tank Bund Area, Vasanthnagar, Bengaluru-560052India, hereinafter referred to as "The Principal", which expression shall unless repugnant to the meaning or contract thereof include its successors and permitted assigns.

And

_____. hereinafter referred to as "The Bidder/Contractor/ Concessionaire/ Consultant" and which expression shall unless repugnant to be meaning or context thereof include its successors and permitted assigns.

Preamble

Whereas, the Principal intends to award, under laid down organizational procedures contract/s for_____ The Principal values full compliance with all relevant laws of the land, rules of land, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and for Contractor(s)/Concessionaire(s)/Consultant(s).

And whereas in order to achieve these goals, the principal will appoint an independent external Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

And whereas to meet the purpose aforesaid, both the parties have agreed to enter into this Integrity Pact (hereafter referred to as Integrity Pact) the terms and conditions of which shall also be read as integral part and parcel of the Tender documents and contract between the parties. Now, therefore, in consideration of mutual covenants stipulated in this pact, the parties hereby agree as follows and this pact is witnessed as under:-

Article-1-Commitments of the Principal

(1) The principal commits itself to take all measures necessary to prevent corruption and to observe the following principle: -

(a) No employee of the principal, personally or through family members, will in connection with the lender for, or the execution of a contract, demand take a promise for or accept for self or third person any material or immaterial benefit Which the person is not legally entitled to.

(b) The principal will, during the tender process treat all Bidder(s) with equity and reason. The principal will in particular, before and during the tender process, provide to all Bidder(s) with the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

(c) The principal will exclude all known prejudiced persons from the process, whose conduct in the past has been of a biased nature.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act or any other Statutory Acts or if there be a substantive suspicion in this regard, the principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions as per its internal laid down Rules/ Regulations.

Article-2 Commitments of the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s)

The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) commit himself to take all measures necessary' to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

(a) The Bidder(s)/ Contractors)/ Concessionaire(s)/ Consultant(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principals employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

(b) The Bidder(s)/ Contractors)/ Concessionaire(s)/ Consultant(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission or bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

(c) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will not commit any offence under the relevant IPC / PC. Act and other Statutory Acts; further the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will nor use improperly for purposes of completion or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

(d) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) of foreign origin shall disclose the name and address of the Agents/ representatives in India. If any similarly the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) of Indian Nationality shall furnish the name and address of the foreign principle, if any.

(e) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract. He shall also disclose the details of services agreed upon for such payments.

(f) The Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

(g) The Bidder(s)/ Contractors)/ Concessionaire(s)/ Consultant(s) will not bring any outside influence through any Govt, bodies/quarters directly or indirectly on the bidding process in furtherance of his bid.

Article 3 Disqualification from tender process and exclusion from future contracts

1) If the Bidder(s)/ Contractor(s)/ Concessionaire(s)/ Consultant(s) before award or during execution has committed a transgression through a violation of any provision of Article-2, above or in any other from such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractors)/ Concessionaire(s)/ Consultant(s) from the tender process.

2) If the Bidder/Contractor/Concessionaire/Consultant has committed a transgression through a violation of Article-2 such as to put his reliability or credibility into question, the Principal shall be entitled to exclude including blacklist and put on holiday the Bidder/Contractor/Concessionaire/Consultant for any future tenders/contract award process. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the Principal taking into consideration the full facts and circumstances of each case, particularly taking into account the number of transgressions, the position of the transgressors within the company hierarchy or the Bidder/Contractor/Concessionaire/Consultant and the amount of the damage. The exclusion will be imposed for a minimum of 1 year.

3) A transgression is considered to have occurred if the principal after due consideration of the available evidence concludes that "On the basis of facts available there are no material doubts".

4) The Bidder/ Contractor/Concessionaire/Consultant will its free consent and without any influence agrees and undertakes to respect and uphold the principal's absolute rights to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

5) The decision of the Principal to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder/ Contractor/Concessionaire/Consultant shall be final and binding on the Bidder/ Contractor/Concessionaire/Consultant.

6) On occurrence of any sanctions/ disqualification etc. arising out from violation of integrity pact. Bidder/ Contractor/Concessionaire/Consultant shall not be entitled for any compensation on this account.

7) Subject to full satisfaction of the principal, the exclusion of the Bidder/Contractor/Concessionaire/Consultant

could be revoked by the Principal if the Bidder/ Contractor/Concessionaire/Consultant can prove that he has restored/recouped the damage caused by him and has installed a suitable corruption prevention system in his organization.

Article 4 Compensation for Damages

1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Articles, the Principal shall be entitled to forfeit the Earnest Money Deposit/Bid Security or demand and recover the damages equivalent to Earnest Money Deposit/Bid Security apart from any other legal right that may have accrued to the principal.

2) In addition to the above, the Principal shall be entitled to take recourse to the relevant provisions of the contract related to the Termination of Contract due to Contractor/Concessionaire/Consultant's Default. In such case, the principal shall be entitled to forfeit the Performance Bank Guarantee of the Contractor/Concessionaire/Consultant and/or demand and recover liquidated and all damages as per the provisions of the contract/Concession agreement against Termination.

Article 5 Previous Transgression

1) The Bidder declares that no previous transgression occurred in the last 3 years immediately before signing of this integrity pact with any other Company in any country conforming to the anticorruption/Transparency International (TI) approach or with any other Public Sector Enterprise/Undertaking in India or any Government Department in India that could justify his exclusion from the lender process.

2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action for his exclusion can be taken as mentioned under Article-3 above for transgression of Article-2 and shall be liable for compensation for damages as per Article-4 above.

Article 6 Equal treatment of all Bidders/ Contractors/ Concessionaires/ Consultants/ Subcontractors

1) The Bidder(s)/Contractor(s)/Concessionaire(s)/Consultant(s) undertake(s) to demand from all sub-contractors a commitment in conformity with this integrity Pact, and to submit it to the principal before contract signing.

2) The principal will enter into agreements with identical conditions as this one with all Bidders/Contractors/Concessionaire/Consultant and Subcontractors.

3) The principal will disqualify from the lender process all Bidders who do not sign this Pact violate previsions.

Article 7 Criminal charges against violating Bidder(s)/ Contractor(s)/ Concessionaire(s)/Consultant(s)/ Sub-contractor(s)

If the Principal obtains knowledge of conduct of Bidder/Contractor/Concessionaire/Consultant or Subcontractor, or of an employee or a representative or an associate of a Bidder/Contractor/Concessionaire/Consultant or Subcontractor, which constitutes corruption, or if the principal has substantive suspicion in this regard, the principal will inform the same to the Chief Vigilance Officer.

Article 8 Independent External Monitor (1EM)

1) The principal appoints a competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively whether and to what extent the parties comply with the obligations under this agreement.

2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairman, B-SMILE

3) The Bidder/Contractor/Concessionaire/Consultant accepts that the Monitor has the right to access without restriction to all Project documentation of the principal including that provided by the Bidder/ Contractor/ Concessionaire/ Consultant. The Bidder/ Contractor/ Concessionaire/ Consultant will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to the Project. The Monitor is under contractual obligation to treat the information and documents of the Bidder/ Contractor/ Concessionaire/ Consultant/ subcontractors with confidentiality.

4) The principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/Contractor/ Concessionaire/Consultant. The parties offer to the Monitor the option to participate in such meetings.

5) As soon as the Monitor notices, or believes to notice any transgression as given in Article-2, he may request the Management of the Principal to take corrective action, or to take relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

6) The Monitor will submit a written report to the Chairman B-SMILE within 8-10 weeks from the date of reference or intimation to him by the principal and, should the occasion arise, submit proposals for correcting problematic situations.

7) If the Monitor has reported to the Chairman, B-SMILE, a substantiated suspicion of under relevant IPC/PC Act or any other Statutory' Acts, and the Chairman, B-SMILE has not, within the reasonable time taken visible action to proceed against such offence or reported it the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

8) The word 'Monitor' would include both singular and plural.

Article 9 Pact Duration

This Pact begins when both parties have signed (In case of EPC i.e. for projects funded by Principal and consultancy services) It expires for the Contractor/Consultant 12 months after his Defect Liability Period is over or 12 months after his last payment under the contract whichever is later and for all other unsuccessful Bidders 6 months after this Contract has been awarded (In case BOT projects) It expires for the concessionaire 24 months after his concession period is over and for all other unsuccessful Bidders 6 months after this Contract has been awarded.

If any claim is made/lodged during this time, the same shall be biding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged determined by Chairman of B-SMILE

Article 10 Other Provisions

(1) This pact is subject to Indian Law, Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Bengaluru, Karnataka.

(2) Changes and supplements as well as termination notices need to be made in writing.

(3) If the Bidder/Contractor/Concessionaire/Consultant is a partnership or a Consortium, this pact must be signed by all partners or Consortium members.

(4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid, in this case, the parties will strive to come to an agreement to their original intentions.

(5) Any dispute/differences arising between the parties with regard to the terms of this Pact, any action taken by the principal in accordance with this Pact or interpretation thereof shall not be subject to any Arbitration.

(6) The actions stipulated in the integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions to the extant law in force relating to any civil or criminal proceedings.

In the witness whereof he parties have signed and executed this pact at the place and date first done mentioned in the presence of following witnesses:-

(For & On behalf of the (Principal)

(For & On behalf of Bidder/Contractor/Concessionaire/Consultant

(Office Seal)

Place

Date

Witness 1:

(Name & Address) _____

Witness 2:

(Name & Address) _____